No. 124.

Motion as to Costs.

Office Supreme Court U. S.
FILED
OCT. 15 1901
JAMES H. McKENNEY,
Clerk.

Filed Oct. 15, 1901.

IN THE

Supreme Court of the United States.

OCTOBER TERM, 1901.

THE FRENCH GLENN LIVESTOCK COMPANY,
Plaintiff in Error,
vs.
ALVA SPRINGER, *Defendant in Error.*
} No. 124.

Motion for an Order in Regard to Taxation of Costs.

CHARLES A. KEIGWIN,
Attorney for Plaintiff in Error.

JUDD & DETWEILER, PRINTERS, 420 & 422 9TH ST., WASH., D. C.

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Now comes the above-named plaintiff in error, by its attorney, and moves the court to authorize and direct the clerk to print the record filed in this cause upon the payment by the plaintiff in error of the costs and fees calculated upon only such portion of the said record as is to be printed.

It appears that the record as filed in this court consists of 106 pages of matter properly included and which should be printed, to which has been added, through the oversight or error of counsel or of the clerk of the court below, nearly 700 pages, which include a stenographic report of

the testimony and other proceedings at the trial, together with divers maps and other exhibits. All of this added matter is unnecessary and unavailable for any purpose, and the parties have stipulated that it shall not be printed.

The clerk of this court considers it his duty, under the last clause of Rule 10, to require the plaintiff in error to pay the regular fee for supervision of this portion of the record, though the stipulation above-mentioned makes it unnecessary and impossible for him to perform any service in relation to the 700 pages thereby eliminated. The fee, calculated under the rule, for such supervision of unprinted matter amounts to $355, which is more than three times the fee for actual supervision.

It is not intended to question the correctness of the interpretation put upon Rule 10 by the clerk; but it is submitted that, in this instance, such interpretation works a hardship entirely out of proportion to the proper value of the clerk's service and such as is not within the contemplation of the rule.

It is therefore prayed that, in view of the exceptional character of the case and the peculiar circumstances under which the hardship has been cast upon the plaintiff in error, the court will authorize the clerk to print the record upon the payment of the fees properly calculable upon that portion of the record which he is required to print, and thereby relieve the plaintiff in error of an unearned and unnecessary fee.

CHARLES A. KEIGWIN,
Attorney for Plaintiff in Error.